

## **REMARKS**

Claims 1-40 are pending. On the Office Action Summary page, the Examiner indicates that the present Office Action is non-final. A telephone confirmation between my assistant Joyce Ferreira and Examiner Baig on February 21, 2008 confirmed that the Office Action is in fact a “non” final. Applicants will proceed with the knowledge that this Office Action is non-final.

Independent claims 1, 10, 18, 23, 27, and 33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (USP No. 2002/0141544) in view of Stetson (US 6,552,614) and further in view of Miller (USP No. 2003/0046690). The Examiner argues that Browns fails to explicitly describe the memory as nonvolatile, but Stetson describes a cable modem having a non-volatile memory. The Examiner also argues that the combination of Brown and Stetson fails to teach configuring the operating system to operate the replacement component, but states that Miller describes a CMTS system operable to replace components [switching tuners 0046].

Miller states “[0046] Another technique is to switch a tuner of the set top box 32 or the ancillary device 38 to a specific channel of the communication network 28 where substitute advertisements are carried. This channel switching may be performed by software in one embodiment, in response to identification of advertisements that are to be swapped (or identification of their triggers). Alternatively or in addition to channel switching, data or graphics stored in the storage unit 35 may be retrieved and then overlaid over the broadcast advertisement after the broadcast advertisement is identified as one that is to be replaced. Picture-in-picture arrangements can also be used to provide this overlay. The overlay information can include local advertisements, substitute URL addresses, screen prompts, and so on.”

Independent claims recite “configuring the operating system to operate the replacement component and report power characteristics to the upstream device.” The Examiner argues that Miller describes switching tuners in paragraph [0046]. However, Miller only appears to describe tuners that switch channels. As stated in paragraph [0046], “Another technique is to switch a tuner of the set top box 32 or the ancillary device 38 to a specific channel of the communication network 28 where substitute advertisements are carried. This channel switching may be performed by software...” Miller does not anywhere teach or suggest configuring the operating

system to operate the replacement component. Miller only describes changing channels, not components.

Furthermore, although Stetson describes a non-volatile memory, there is no motivation in Stetson to combine Stetson with the techniques and the mechanisms of the present application. Stetson also does not teach or suggest writing any characteristic information of a component such as a tuner into nonvolatile memory.

According to various embodiments, “In order to accommodate a new or different tuner, a new version of the operating system typically has to be introduced with the new hard coded characteristic information. However, introducing a new operating system version raises compatibility and compliance issues. Techniques of the present invention provide that a memory associated with the cable modem component, such as a tuner, is provided in a cable modem. According to various embodiments, the memory is a nonvolatile memory. As will be appreciated by one of skill in the art, nonvolatile memory is a general term including all forms of solid-state memory that do not have the memory contents periodically refreshed. Some examples of nonvolatile memory are read-only memory and flash memory. Another example of nonvolatile memory is random access memory that is powered with an independent power source such as a battery.

Characteristic information associated with the cable modem component such as an RF tuner, can be written onto a nonvolatile memory. In one example, the cable modem operating system can be configured to acquire tuner characteristic information from the nonvolatile memory. The operating system no longer needs to be hard coded with specific tuner characteristics or supplemented with additional code such as a tuner specific device driver. When a new tuner is selected for use with a current operating system, a nonvolatile memory associated with the tuner can be programmed and provided in the cable modem along with the tuner. A more general device driver can be used. No new version of the operating system is required. The existing version of the operating system can access characteristic information associated with the tuner by reading the nonvolatile memory. Compliance and compatibility concerns are addressed by maintaining the same version of the operating system, without new software additions such as new device drivers.” (page 6, line 17 – page 7, line 9)

Brown describes a system connected to a CATV headend. “Controller 60 employs the process shown in FIG. 2 for initializing system 12 of FIG. 1 and for selecting an initial power transmission level for transmitting of signals from system 12 to the CATV head end. Specifically, FIG. 2 shows a series of operational states through which the FIG. 1 DOCSIS compliant cable modem system 12 progresses during startup to become fully operational. Upon application of power to modem system 12 in step 250 of FIG. 2, controller 60 executes bootloader software uploaded from flash memory within unit 60 to set all modem components to their initial power on condition.” [0016] Although bootloader software is uploaded from flash memory, it is unclear here whether parameter information comprising power characteristics of the component is obtained from nonvolatile memory as is variably recited in the independent claims. Brown only describes bootloader software uploaded but does not describe parameter information comprising power characteristics obtained from nonvolatile memory.

More specifically, Brown describes “downloading a Configuration File for modem system 12 from a remote TFTP (Trivial File Transfer Protocol) server using TFTP. The configuration file includes SNMP compatible data conveying threshold values defining warning zones near the minimum and/or maximum operational limits for the power level to be used in transmitting signals from system 12 to the CATV head end.” [0019] Other values or default values are believed associated with an operating system and are provided in system memory, which is volatile memory. This is believed to be the conventional system described in the present application. In conventional systems, an operating system is hardcoded with default values. Default values are not stored on a nonvolatile memory.

In light of the above remarks above, all independent claims and associated dependent claims are believed allowable for at least the reasons noted above. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,  
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